

1                                    ARKANSAS DEPARTMENT OF HEALTH  
2                                    COSMETOLOGY SECTION  
3                                    COSMETOLOGY TECHNICAL ADVISORY COMMITTEE  
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8                    BE IT REMEMBERED that on Monday, the 19<sup>th</sup> day of  
9    September 2011, the meeting of the Arkansas Department of Health,  
10    Cosmetology Section, Cosmetology Technical Advisory Committee was  
11    held, at 9:00 a.m., at the Arkansas Department of Health, Freeway  
12    Medical Building, Suite 801, Little Rock, Pulaski County,  
13    Arkansas.  
14    \_\_\_\_\_  
15

16    TECHNICAL ADVISORY COMMITTEE:

17    KIMBERLY FORD, Chair  
18    ROGERS BARNES  
19    SANDY DAVIS  
20    REBECCA ARGUELLO  
21    JACQUELYN REYNOLDS  
22    JEANNIE BONDS

23    REPORTED BY:

24                                    SUSAN B. WHITSON, CCR  
25                                    Arkansas Supreme Court Certificate No. 158  
   9810 Woodland Drive  
   Mabelvale, Arkansas 72103  
   (501) 455-1170  
   WhitsonCCR@aol.com

1 APPEARANCES:

2 ON BEHALF OF THE BOARD:

3 REGINALD ROGERS, ESQ.

4 Staff Members Present:

5 KELLI KERSEY - Section Chief

RENEE MALLORY

6 MICHELLE RUDOLPH - Administrative Assistant

7 TERI CRAVOTTA - Administrative Specialist

8 Board Inspectors Present:

9 ROSE HORNER

PAT BLAND JACKSON

10 LAVONNE LESTER

BRENDA MORGAN

11 VERA WOOD

12  
13 Court Reporter:

14 Susan B. Whitson, CCR

15 Arkansas Supreme Court Certificate No. 158

1	I N D E X	
2	AGENDA ITEM	PAGE
3	Caption.....	1
4	Appearances.....	2
5	Paid Violations.....	5
6	Administrative Hearing In the Matter of:	
7	Flawless Salon & Day Spa.....	6
8	WITNESSES:	
9	VERA WOODS	
10	Direct by Mr. Rogers.....	11
11	KELLI KERSEY	
12	Direct by Mr. Rogers.....	13
13	CHERYL GRAY	
14	Direct Testimony.....	15
15	Examination by the Committee...	16
16	Cross by Mr. Rogers.....	19
17	EXHIBIT 1 Order and Notice and inspection report	10
18	Motion by committee.....	21
19	Administrative Hearing In the Matter of:	
20	5 Star Unisex.....	23
21	WITNESSES:	
22	Rose Horner	
23	Direct by Mr. Rogers.....	25
24	Kelli Kersey	
25	Direct by Mr. Rogers.....	27



## P R O C E E D I N G S

MS. FORD: Okay. At this time I would like to make a motion for approval of the paid violations.

MS. DAVIS: I make a motion we approve.

MS. REYNOLDS: Second.

MS. FORD: We have a second. The paid violations will stand.

MS. KERSEY: You've got to vote.

MS. FORD: Oh.

MS. KERSEY: That's okay.

MS. FORD: All in favor of paid violations.

BOARD MEMBERS: Aye.

MS. FORD: All in favor -- stand approved.

MS. KERSEY: Okay.

(WHEREUPON, a break was held from 9:17 a.m. to 9:27 a.m.)

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1 ADMINISTRATIVE HEARING

2 IN THE MATTER OF:

3 ARKANSAS DEPARTMENT OF HEALTH

4 v.

5 FLAWLESS SALON & DAY SPA, Cheryl Gray, Owner

6 MR. ROGERS: Flawless Salon, do we have a  
7 representative?

8 MS. CHERYL GRAY: I'm here.

9 MR. ROGERS: Hello. Good morning. How are you?

10 MS. CHERYL GRAY: Fine. How are you?

11 MR. ROGERS: Step up close to the mic or whatever  
12 they have for you.

13 Is that fine there?

14 MS. KERSEY: Please speak up.

15 HEARING OFFICER JOHNSON: Is there a microphone?

16 MS. KERSEY: No.

17 MR. ROGERS: Well, please speak up so that we can  
18 get your comments and remarks on the mic.

19 I believe we're ready to proceed. Peggy, do you  
20 want to go?

21 HEARING OFFICER JOHNSON: All right. For those of  
22 you who don't know, I'm Peggy Johnson, I'm the Hearing  
23 Officer today for today's hearing. And we are now on  
24 the record in the matter of Arkansas Department of  
25 Health v. Flawless Salon & Day Spa, Cheryl Gray, Owner.

1 Today's date is September 19, 2011, and this  
2 matter is before the Arkansas Cosmetology Board to  
3 determine whether Flawless Salon & Day Spa has violated  
4 the rules and regulations of the Arkansas State Board  
5 of Cosmetology, and specifically Arkansas Code  
6 Annotated 20-7-101 and following, and Arkansas Code  
7 Annotated 7-26-101 and following.

8 The -- the respondent Flawless Salon & Day Spa is  
9 represented here today.

10 MS. CHERYL GRAY: Yes.

11 HEARING OFFICER JOHNSON: And you are Ms. Cheryl  
12 Gray?

13 MS. CHERYL GRAY: Yes, I am.

14 HEARING OFFICER JOHNSON: And are you represented  
15 by an attorney?

16 MS. CHERYL GRAY: No.

17 HEARING OFFICER JOHNSON: Oh, the person that's  
18 seated with you?

19 MS. VERA WOOD: I'm the inspector.

20 MR. ROGERS: Oh, Vera Wood.

21 HEARING OFFICER JOHNSON: Okay. Vera Wood,  
22 inspector.

23 MR. ROGERS: The Department of Health.

24 HEARING OFFICER JOHNSON: Okay. All right.

25 All right. And will you be giving testimony as

1 well, Ms. Wood?

2 MS. VERA WOOD: Yes.

3 MR. ROGERS: Yes, she will.

4 HEARING OFFICER JOHNSON: All right. Any others?

5 MR. ROGERS: I believe that's all I'm aware of.

6 HEARING OFFICER JOHNSON: All right. And,

7 Ms. Gray, you will be testifying on your behalf.

8 MR. ROGERS: And, I'm sorry, Kelli.

9 HEARING OFFICER JOHNSON: And -- all right. Would  
10 you all raise your right hand and be sworn in by the  
11 court reporter, Ms. Whitson.

12 (WHEREUPON, the witnesses were sworn.)

13 HEARING OFFICER JOHNSON: And I will just ask you  
14 to speak loudly enough because we don't have a  
15 microphone, not only for Ms. Whitson but for the rest  
16 of us up here.

17 I have my outdoor voice, I don't need very much  
18 amplifying.

19 But at any rate, Mr. Rogers, Reginald Rogers is  
20 representing the board.

21 And, Mr. Rogers, do you have any documents that  
22 you want the board to consider today?

23 MR. ROGERS: I believe we should have, Ms. Wood  
24 has a copy, one copy should go to the court reporter  
25 and one to Flawless Salon, but we should have an



1 inspection report, a cosmetology inspection report, if  
2 we have any copies of that, please, and we need to mark  
3 that as an exhibit, and that will be Department of  
4 Health Exhibit 1, which should be a cosmetology  
5 inspection report dated June 23, 2011, I believe.

6 MS. VERA WOOD: Yes, sir.

7 MR. ROGERS: And I have it as a three-page  
8 document, and it has a receipt and a certified mail  
9 receipt --

10 HEARING OFFICER JOHNSON: All right.

11 MR. ROGERS: -- green slip.

12 HEARING OFFICER JOHNSON: Do you have a copy of  
13 that, Ms. Wood?

14 MS. VERA WOOD: Yes.

15 HEARING OFFICER JOHNSON: All right. Now, does  
16 Ms. -- does Ms. Gray have a copy of that?

17 MS. CHERYL GRAY: Yes. I do.

18 HEARING OFFICER JOHNSON: And you -- do you have  
19 any objections to that being entered into the record --

20 MS. CHERYL GRAY: No.

21 HEARING OFFICER JOHNSON: -- and being considered  
22 by the board?

23 MS. CHERYL GRAY: No, ma'am.

24 HEARING OFFICER JOHNSON: All right. Then without  
25 objection that document marked as Exhibit 1 will be

1 entered into the record.

2 (WHEREUPON, Department of Health Exhibit No. 1 was  
3 received in evidence.)

4 MR. ROGERS: And, Ms. Wood, I believe that's the  
5 only document we have. Is that correct?

6 MS. VERA WOOD: Yes, sir.

7 MR. ROGERS: Okay.

8 HEARING OFFICER JOHNSON: All right.

9 MR. ROGERS: That will be the only exhibit.

10 HEARING OFFICER JOHNSON: All right. Then at this  
11 time you may publish that to the board.

12 MR. ROGERS: All right. Do we have copies to pass  
13 to the board?

14 MS. KERSEY: You all have copies.

15 MR. ROGERS: You do have copies?

16 I believe the board does have copies.

17 And does the court reporter have a copy?

18 HEARING OFFICER JOHNSON: Court reporter has a  
19 copy.

20 MR. ROGERS: Okay. We're ready, then.

21 HEARING OFFICER JOHNSON: All right, then. If  
22 there is nothing else, begin by calling your first  
23 witness.

24 MR. ROGERS: Call Ms. Vera Wood.

25 WHEREUPON,

1                                   VERA WOOD,  
2   having been called for examination, and having been first duly  
3   sworn by the undersigned notary public, was examined and  
4   testified, as follows:

5                                   DIRECT EXAMINATION

6   BY MR. ROGERS:

7   Q     Please identify yourself and where you're employed?

8   A     Vera Wood, Central Inspector for the Arkansas Department of  
9   Health.

10   Q     And what are your job duties, just briefly?

11   A     To go in and inspect salons, day spas, nail salons for  
12   health and safety issues for all our rules and regulations and  
13   our laws.

14   Q     Thank you, very much.

15           And did you inspect Flawless Salon & Day Spa in, I believe,  
16   Danville, Arkansas? Is that correct?

17   A     Yes, sir.

18   Q     Did you find any deficiencies or issues with Flawless Salon?

19   A     Yes, sir.

20           I stumbled upon them and I found that they had not applied  
21   for an establishment license.

22   Q     And so they did not have a license as required by our  
23   cosmetology rules and regulations. Is that correct?

24   A     Yes, sir.

25   Q     Okay. And when did you go to that facility?

1 A June 23, 2011.

2 Q And did you make out this cosmetology inspection report  
3 that's marked as Exhibit 1 for the department of health?

4 A Yes, sir.

5 Q All right. And what did -- what else did you find, if  
6 anything?

7 A That was the only thing I found they were out of rules on.

8 Q Was Ms. Cheryl Gray there at that time when you inspected  
9 it?

10 A Yes, sir.

11 Q Did you inform her of the violation?

12 A Yes, sir.

13 And I also left paperwork for her to fill out.

14 Q Did she give a response or any comment about the allegation  
15 that she did not have a current license?

16 A She did not know she was supposed to have an establishment  
17 license.

18 Q All right. And the next two documents that are attached,  
19 would you explain those please for the committee, the penalty  
20 receipt and the return receipt?

21 A Well, I'm assuming this is the penalty for not having an  
22 establishment license.

23 Q Well, we'll have Ms. Kersey cover that.

24 A Yes.

25 Q Anything else you would like to inform the committee?

1 A No, sir.

2 MR. ROGERS: All right. Pass the witness.

3 HEARING OFFICER JOHNSON: All right. Does the  
4 board have any specific questions for Ms. Wood?

5 Okay. If there are no questions. And Ms. Gray, I  
6 would ask if you have any questions to pose to  
7 Ms. Wood?

8 MS. CHERYL GRAY: No. None for her.

9 (Witness excused.)

10 HEARING OFFICER JOHNSON: All right. You may call  
11 your next witness.

12 MR. ROGERS: Call Ms. Kelli Kersey.

13 WHEREUPON,

14 KELLI KERSEY,

15 having been called for examination, and having been first duly  
16 sworn by the undersigned notary public, was examined and  
17 testified, as follows:

18 DIRECT EXAMINATION

19 BY MR. ROGERS:

20 Q Please identify yourself and where you're employed?

21 A Kelli Kersey, Section Chief, Arkansas Department of Health  
22 Cosmetology Section.

23 Q And what are your job duties in general? I know there are  
24 various job duties that you have. Duties as assigned?

25 A We don't have time for that.

1 Q Okay. So keep it to the bare minimum.

2 A I oversee the cosmetology section and we regulate the health  
3 and safety of the public and I am in charge of the inspectors  
4 that go out and inspect the salon.

5 Q Thank you very much.

6 And turning your attention to Flawless Salon, what -- you've  
7 heard Ms. Wood's testimony. What did you find? Did Flawless  
8 Salon have a current license?

9 A No. They did not.

10 I did find in our database that they did apply on June 28  
11 for a license. The -- when we get an inspection sheet in, we  
12 look in the system and see if they actually do have a violation.  
13 We send out the violation notice, which is the second page of the  
14 Exhibit 1. And the third page is a penalty that tells them how  
15 much they owe. And the last one is we send it certified so that  
16 we make sure that they get it.

17 Q All right. Does the staff have a recommendation on a  
18 penalty?

19 A \$250 is the penalty for opening a salon without a license.

20 Q Anything else you would like to inform the committee?

21 A No. That's it.

22 MR. ROGERS: Pass the witness.

23 HEARING OFFICER JOHNSON: All right. Does the  
24 board have any further questions for Ms. Kersey?

25 All right. Do you have any questions for

1 Ms. Kersey?

2 MS. CHERYL GRAY: I'm good.

3 HEARING OFFICER JOHNSON: All right. Then you  
4 may --

5 (Witness excused.)

6 MR. ROGERS: Oh, the board -- we rest.

7 HEARING OFFICER JOHNSON: All right. All right.

8 Ms. Gray, this is your opportunity to -- to tell the  
9 board anything you want to regarding the charges or any  
10 other previous testimony that's been given today, and  
11 this is your opportunity.

12 WHEREUPON,

13 CHERYL GRAY,  
14 having been called for examination, and having been first duly  
15 sworn by the undersigned notary public, was examined and  
16 testified, as follows:

17 DIRECT TESTIMONY

18 THE WITNESS: Okay. I'm Cheryl Gray and I have  
19 Flawless Salon.

20 I had the ladies at the college which we had just  
21 recently graduated, so knowing that we were going to be  
22 opening a new business I had the instructors at the  
23 college help me with a list of everything we had to do,  
24 and somehow or another this did not get on our list to  
25 do. We did -- we had only been opened a couple of

1 weeks and I actually was the only one there, the other  
2 girls hadn't even passed their or taken their test yet,  
3 so I was kind of just hanging out there by myself, you  
4 know, just not doing much. But it was just, you know,  
5 a new business oversight and was not anything  
6 intentional.

7 Being a new business, really, you know, I can't  
8 afford a large fine. I just wanted to see if we could  
9 maybe get the fine dismissed or reduced or something.

10 HEARING OFFICER JOHNSON: All right. All right.  
11 Does the board have any questions specifically for  
12 Ms. Gray?

13 All right. All right. Ms. -- Ms. Becky?

14 MR. ROGERS: No, Ford.

15 HEARING OFFICER JOHNSON: Ms. Kimberly Ford, I'm  
16 sorry.

17 MS. FORD: Question. What was the day actually  
18 opened for business?

19 THE WITNESS: We had planned on opening  
20 May 15<sup>th</sup>, but my father-in-law passed away and we had  
21 about a week and a half to two weeks there that was,  
22 you know, in and out and, you know, just not really  
23 there a whole lot because of, you know, family being in  
24 and stuff. So it was more, you know, like towards the  
25 end of May before we -- before I was there sitting



1           pretty often.

2           MS. FORD: Well, what was the actual, the first  
3 time you went in to service a client there? Anyone?

4           THE WITNESS: Oh, it was probably like around the  
5 third week of the month. I don't remember the date  
6 exactly.

7           MS. FORD: Of May?

8           THE WITNESS: Of May, yeah.

9           And I did apply for, when she gave me the  
10 paperwork, I did fill it out that day and sent it in  
11 that afternoon that she was there.

12          MS. FORD: That's all.

13          HEARING OFFICER JOHNSON: All right. All right.  
14 Any other questions?

15          Okay. Go ahead.

16          MS. REYNOLDS: What's her name?

17          HEARING OFFICER JOHNSON: Ms. Gray. Her name is  
18 Ms. Gray.

19          MR. ROGERS: Cheryl Gray.

20          MS. REYNOLDS: Ms. Gray, when you first opened  
21 this business, did they not tell you that you had to  
22 have a business license?

23          THE WITNESS: Well, they had on my list the -- you  
24 know, the license you have to have there in the town,  
25 but they didn't have on here the cosmetology, what

1 is --

2 MS. VERA WOOD: Establishment.

3 THE WITNESS: -- establishment license, they  
4 didn't have that on there. And there were so many  
5 things that we had to get done to open the business and  
6 the building being, you know, repaired and all sorts  
7 of -- there was just -- I mean it was just a huge list  
8 of steps to take to getting open, that never wound up  
9 on our list.

10 I don't know if they weren't aware of it or if it  
11 just slipped their mind or whatever. I know that they  
12 had gone through the computer at the time when we were  
13 still in school and was making this list, because I was  
14 still in school when we were preparing, you know, to  
15 get this building going and stuff, but it just never  
16 wound up on the list.

17 HEARING OFFICER JOHNSON: Any other questions?

18 Ms. Bonds?

19 MS. BONDS: Did you pull up a copy of the rules  
20 and regulations of opening an establishment before  
21 opening your salon?

22 THE WITNESS: We had it when we were in school.  
23 We had -- they had pulled it up and printed it up for  
24 me when I was in school.

25 MS. BONDS: Did you read through it?

1 THE WITNESS: We read through it, yeah. We all  
2 read it together. We just --

3 MS. BONDS: You missed that? Because it is in the  
4 rules and regs.

5 THE WITNESS: Yeah. And I did go back and saw it  
6 again.

7 Of course, I was -- I went back to the school and  
8 said, ladies, how did we miss this. It was just a  
9 miss.

10 MS. BONDS: Yeah. You should go through that.

11 HEARING OFFICER JOHNSON: Any others?

12 MR. BARNES: I would just make a comment and ask  
13 that, you didn't have any other findings during the  
14 inspection?

15 THE WITNESS: No.

16 MR. BARNES: And it sounds like they did a  
17 thorough job except missing this point, I would  
18 recommend a hundred-dollar reduction. It was still a  
19 penalty, but fine 150 instead of 250.

20 HEARING OFFICER JOHNSON: All right. Are there  
21 any other questions for Ms. Gray?

22 If there are no further questions, then I would  
23 ask if Mr. Rogers has any questions for her?

24 CROSS-EXAMINATION

25 BY MR. ROGERS:

1 Q You heard the testimony of Ms. Wood that the response from  
2 you was that you were not aware that a license was needed for  
3 cosmetology. Is that correct?

4 A Yes. Pretty much that was -- at the time I just was not  
5 aware that that was needed.

6 MR. ROGERS: That's all I have.

7 (Witness excused.)

8 HEARING OFFICER JOHNSON: Okay. All right. If  
9 the board doesn't have any other questions, are you  
10 ready to deliberate over the testimony and then come to  
11 a decision on the charges?

12 MS. KERSEY: Yes.

13 HEARING OFFICER JOHNSON: Okay. All right. Do we  
14 do that on the record or do we typically do that off  
15 the record?

16 MS. KERSEY: Off the record.

17 HEARING OFFICER JOHNSON: All right. Then we'll  
18 now -- the board has taken all the testimony and they  
19 are now going to go off the record to deliberate.  
20 Okay.

21 (WHEREUPON, the Commission retired to deliberate,  
22 off the record, from 9:41 a.m. to 9:42 a.m., and  
23 returned with the following motion.)

24 HEARING OFFICER JOHNSON: All right. We're back  
25 on the record. We're back on the record in the matter

1 of Cheryl Gray and her salon, Flawless Salon & Day Spa.

2 The board has deliberated and has made a -- come  
3 to a consensus on a fine. I will turn it over to the  
4 chairman to entertain a motion and a second on the  
5 record. On the record.

6 MS. FORD: Okay. Now, for the record, we need to  
7 make a motion that the 250-dollar fine will stand.

8 MS. BONDS: I make a motion that the 250-dollar  
9 fine stands.

10 MS. REYNOLDS: I second it.

11 MS. FORD: Motion has been seconded by Jackie.

12 All in favor, raise your hand and state, "Aye."

13 BOARD MEMBERS: Aye.

14 MS. FORD: It's unanimous. Fine will stand at  
15 250.

16 HEARING OFFICER JOHNSON: All right. The fine  
17 will be \$250, that will be unanimous, and that decision  
18 will be reduced to writing and sent to you, Ms. Gray,  
19 and any right you have of appeal will be explained to  
20 you in the written decision.

21 All right. Are there any other questions or  
22 comments regarding this matter?

23 If not, then thank you both. Thank you for being  
24 here today, and that matter is concluded.

25 (WHEREUPON, at 9:46 a.m., the above-entitled

1 matter was concluded.)

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1 ADMINISTRATIVE HEARING

2 IN THE MATTER OF:

3 ARKANSAS DEPARTMENT OF HEALTH

4 v.

5 5 STAR UNISEX

6 HEARING OFFICER JOHNSON: Okay. The next matter  
7 before the cosmetology board is the matter of Arkansas  
8 Department of Health v. 5 Star Unisex, and it's -- is 5  
9 Star Unisex present here today?

10 Is anyone present on behalf of 5 Star?

11 MR. ROGERS: Do we have Rose Horner?

12 Rose Horner, please.

13 HEARING OFFICER JOHNSON: Okay. Are you  
14 Ms. Horner?

15 MS. HORNER: Yes.

16 HEARING OFFICER JOHNSON: Oh, okay. Okay.

17 MR. ROGERS: She's with the department, she's an  
18 inspector.

19 HEARING OFFICER JOHNSON: Okay. But I'm taking it  
20 that there is not a representative here today for 5  
21 Star, for the actual establishment?

22 MS. KERSEY: No. They did not come.

23 HEARING OFFICER JOHNSON: Okay. All right. Then  
24 we'll go ahead.

25 All right. In the Matter of Arkansas Department

1 of Health v. 5 Star Unisex, apparently the owner is not  
2 present here today.

3 Representing the -- the board of -- cosmetology  
4 board is attorney Reginald Rogers. I understand  
5 Ms. Rose Horner is the inspector and she will be  
6 providing testimony before the board today. I would  
7 ask that you raise your right hand and be sworn in by  
8 the court reporter, Ms. Whitson.

9 (WHEREUPON, the witnesses were sworn.)

10 HEARING OFFICER JOHNSON: And I'm informed that  
11 also giving testimony today will be Ms. Kelli Kersey.

12 MS. KERSEY: Yes.

13 HEARING OFFICER JOHNSON: All right. And she has  
14 been sworn in also, just for the record.

15 Are there any documents that you want the board to  
16 consider today, Mr. Rogers?

17 MR. ROGERS: Yes. We -- I believe, it's my  
18 understanding previously there was a hearing in this  
19 matter.

20 MS. KERSEY: (Nodding head up and down.)

21 MR. ROGERS: And there was a request from the  
22 owner for some reconsideration of this matter. So we  
23 had some previous documents, I don't know if we need to  
24 go through those again. But I also have some  
25 information, the staff did some further research, and



1 I'll have Ms. Kersey to explain. There is a proposal  
2 or recommendation from the staff to reduce the penalty.  
3 It had been initially \$1,470 then reduced to a thousand  
4 dollars, and but subsequently after receiving more  
5 information, staff has a recommendation for a further  
6 reduction.

7 HEARING OFFICER JOHNSON: Okay.

8 (WHEREUPON, Department of Health Exhibit No. 1 was  
9 received in evidence.)

10 MR. ROGERS: So I'll --

11 HEARING OFFICER JOHNSON: All right. We'll take  
12 testimony regarding that issue?

13 MR. ROGERS: Yes, we will.

14 HEARING OFFICER JOHNSON: Okay. And do you want  
15 to begin first with Ms. Horner or Ms. Kersey?

16 MR. ROGERS: Yes, just briefly.

17 WHEREUPON,

18 ROSE HORNER,  
19 having been called for examination, and having been first duly  
20 sworn by the undersigned notary public, was examined and  
21 testified, as follows:

22 DIRECT EXAMINATION

23 BY MR. ROGERS:

24 Q Ms. Horner, state your name and where you're employed.

25 A Rose Horner, cosmetology inspector. I'm employed by the

1 Arkansas Department of Health.

2 Q And explain to us the situation with 5 Star Unisex. I know  
3 there was a -- some previous consideration of this matter. What  
4 did you find, just briefly?

5 A That the salon had relocated and did not do the proper  
6 paperwork.

7 Q All right.

8 A And unlicensed people and --

9 Q There were some other violations, is that correct?

10 A -- other violations. Yes.

11 Q And then subsequently, that was with Ms. Moncado --

12 A Yes.

13 Q -- was the owner and her daughter. Is that correct?

14 A Yes.

15 Q All right. And did you find out something about the  
16 relocation subsequent to that last hearing?

17 A Yes, sir.

18 Q Okay. What did you find out?

19 A Now, what do you mean what did I find out?

20 Q Well, there was a proposal to reduce the penalty?

21 A Yes. They -- they did renew their salon license, I think in  
22 February.

23 THE WITNESS: Is that right, Kelli?

24 MS. KERSEY: Uh-huh.

25 THE WITNESS: And they -- they had just filled out

1           a renewal form and sent in 150-dollar check. They  
2           didn't do the change of relocation application. They  
3           did send in their money on a renewal form with the  
4           corrected address.

5 BY MR. ROGERS:

6 Q     Okay. All right. Anything else you would like to inform  
7     the committee?

8 A     (Shaking head from side to side.)

9           MR. ROGERS: Pass the witness.

10          HEARING OFFICER JOHNSON: All right. Does the  
11          board have any further questions for Ms. Horner?

12          (Witness excused.)

13          All right. Then you may call your next witness.

14          MR. ROGERS: Call Ms. Kelli Kersey.

15 WHEREUPON,

16                   KELLI KERSEY,

17 having been called for examination, and having been first duly  
18 sworn by the undersigned notary public, was examined and  
19 testified, as follows:

20                   DIRECT EXAMINATION

21 BY MR. ROGERS:

22 Q     State your name and where you're employed.

23 A     Kelli Kersey, section chief, Arkansas Department of Health,  
24     Cosmetology Section.

25           When we did this --

1 Can I just talk?

2 Q Yes. You --

3 A Sorry.

4 This owner was here last time for this violation. And she  
5 kept saying I -- I did change my location, I did change my  
6 location. She kind of had a language barrier, her daughter was  
7 interpreting for her. And so when I went back to the office I  
8 decided to look up her renewal, and she actually came to the  
9 office. And she actually, in fact, had done a renewal and put  
10 the new address on there, she just didn't fill out a relocation.  
11 So I don't know if it was with the language barrier she just  
12 wasn't understanding that she needed to do a relocation. But, I  
13 mean, I have the -- y'all have a copy of it, the actual re -- her  
14 renewal with the -- the right address on there. So and she  
15 renewed her -- she also renewed her personal license at that time  
16 when she came in.

17 You don't have a copy of that? I'm sorry.

18 So you -- yeah, Jackie was here. So, anyway, that's what I  
19 have to add, that she did do the new location, she just didn't  
20 fill out a relocation form.

21 Q Does the staff have a proposal for a reduction or --

22 A I would -- my proposal would be to reduce the fine, there is  
23 a 250-dollar fine that she didn't have a license or the salon  
24 didn't have a license and which, in fact, she really did have a  
25 license so, and that would be \$500 off of the fine.

1           And what did we decide?

2   Q       350 is what I have on there.

3   A       Yeah. 350 would be the actual fine for all the other  
4 violations that she did have.

5   Q       So the last penalty was reduced down to a thousand dollars?

6   A       Uh-huh.

7   Q       And your recommendation from staff is to reduce the  
8 thousand-dollar penalty, reduce it further to 350 --

9   A       Right.

10   Q       -- based on the documents and subsequent investigation, is  
11 that correct?

12   A       Exactly.

13   Q       Okay. Anything else you would like to inform the committee?

14   A       No.

15                   MR. ROGERS: Pass the witness.

16                   HEARING OFFICER JOHNSON: All right. Is there any  
17 questions, any further questions for Ms. Kersey?

18                   MS. BONDS: I have read through your court case, I  
19 have read through all the court cases and hers was -- I  
20 just passed it on.

21                   Was there other violations?

22                   THE WITNESS: There was other violations, yeah.  
23 That's what the \$350 would be that I'm recommending.

24                   MS. BONDS: For all the violations?

25                   THE WITNESS: Yes.

1           They were mainly -- they were mainly like health  
2           and safety violations.

3           MS. REYNOLDS: But have you been to the new  
4           location?

5           COURT REPORTER: I didn't hear you. I can't hear  
6           you.

7           THE WITNESS: I haven't. Rose has.

8           MR. ROGERS: Repeat the question.

9           MS. REYNOLDS: No. I was asking her has she been  
10          to the new location.

11          But you have, right?

12          Can I ask her a question?

13          HEARING OFFICER JOHNSON: Certainly you may ask a  
14          question for Ms. Horner.

15          MS. REYNOLDS: Okay. Ms. Horner?

16          MS. HORNER: Yes.

17          MS. REYNOLDS: When you went to that new location,  
18          were any of the violations corrected from the last  
19          meeting that we had with her? Did she correct --

20          MS. HORNER: I haven't been there since the last  
21          hearing.

22          MS. REYNOLDS: Okay.

23          THE WITNESS: She hasn't been back.

24          I mean, and that's why I would assume that --  
25          yeah, I mean, she still needs the health and safety

1 violations because, even if they were corrected, they  
2 were still a violation at that time.

3 (Witness excused.)

4 HEARING OFFICER JOHNSON: Okay. Is the board now  
5 ready to consider the testimony and, you know, at least  
6 deliberate and make a motion with regard to the  
7 recommendation of Ms. Kersey and staff that the fine be  
8 reduced?

9 MS. FORD: Yes.

10 HEARING OFFICER JOHNSON: All right. Then we can  
11 go off --

12 MS. FORD: Yes.

13 HEARING OFFICER JOHNSON: We can go off the record  
14 while we do that.

15 (WHEREUPON, the Commission retired to deliberate,  
16 off the record, from 9:53 a.m. to 9:54 a.m., and  
17 returned with the following motion.)

18 HEARING OFFICER JOHNSON: All right. All right.

19 MS. FORD: The \$350 fine that's been recommended  
20 by staff will stand.

21 HEARING OFFICER JOHNSON: All right. Okay. We're  
22 back on the record in the matter of 5 Star Unisex and  
23 the board is now ready to make a formal motion and a  
24 second with regard to the staff recommendation.

25 MS. FORD: On record we need to make a motion that

1           the \$350 will stand, fine will stand.

2           MR. BARNES: I make a motion.

3           MS. FORD: Motion by Rogers.

4           MS. ARGUELLO: Second.

5           MS. FORD: Second by Rebecca.

6           All in favor, raise your hand and say, "Aye."

7           BOARD MEMBERS: Aye.

8           MS. FORD: It's unanimous, so the \$350 will stand.

9           HEARING OFFICER JOHNSON: All right. The board  
10          has made their decision, and this will be reduced to  
11          writing and a copy will be mailed to the respondent  
12          notifying her of the board's decision today.

13          All right, then this matter will be concluded.  
14          Thank you.

15          (WHEREUPON, at 9:56 a.m., the above-entitled  
16          proceedings were concluded.)

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CERTIFICATE

STATE OF ARKANSAS )

COUNTY OF PULASKI )

I, SUSAN B. WHITSON, Certified Court Reporter and notary public in and for Pulaski County, State of Arkansas, do hereby certify that the meeting of the Arkansas Department of Health, Cosmetology Section, Cosmetology Technical Advisory Committee, September 19, 2011, was taken by me in Stenotype and was reduced to computer-generated typewritten form by me or under my direction and supervision; that the witnesses were duly sworn by the undersigned notary public; and that the same is a true and correct reflection of the proceedings that occurred, to the best of my knowledge and ability.

I FURTHER CERTIFY that I am neither counsel for, related to, nor employed by any of the parties to the action in which these proceedings were taken; and, further that I am not a relative or employee of any attorney or counsel employed by the parties hereto, nor financially interested, or otherwise, in the outcome of this action; and that I have no contract with the parties, attorneys, or persons with an interest in the action that affects or has a substantial tendency to affect impartiality, that requires me to relinquish control of an original transcript or copies of the transcript before it is

1 certified and delivered to the custodial attorney, or that  
2 requires me to provide any service not made available to all  
3 parties to the action.

4 SIGNED AND SWORN this \_\_\_\_\_ day of

5 \_\_\_\_\_.

6  
7 \_\_\_\_\_  
8 SUSAN B. WHITSON, CCR, #158

9 NOTARY PUBLIC IN AND FOR

10 PULASKI COUNTY, ARKANSAS

11  
12 My Commission Expires: June 4, 2012.

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